IN THE HIGH COURT OF BOMBAY AT GOA

CRIMINAL WRIT PETITION NO. 8 OF 2005

SHRI MANOJ S.SAWANT ....Petitioners

Versus

STATE OF GOA THROUGH PUBLIC PROSECUTOR AND 2 ORS., ...Respondents

Shri D.P. Bhise, Advocate for the Petitioner.

Ms. W. Coutinho, P.P. For R. 1 And 2

Coram:- N. A. BRITTO, J.

Date:- 25th August, 2005

P.C.:

Heard Shri D.P. Bhise, the learned counsel on behalf of the Petitioner.

The petitioner is an ex-employee namely a Peon of the Goa State Cooperative Bank Ltd., Curti Branch. In this petition, the petitioner has invoked the jurisdiction of this Court under S.482 Cr.P.C., 1973 to quash the complaint/F.I.R. lodged against him by Shri A.V. Shinde, the Managing Director of the said Bank dated 10.5.02 and registered as Crime No.202/2003 at Ponda Police Station under S.408 I.P.C.

The allegation against the petitioner is that the petitioner had prepared, tied and sealed certain bundles of soiled Rs.100/- notes and had signed the same; some such bundles were subsequently detected to have found 474 notes missing from such bundles worth Rs.47,400/-. It is stated that in the preliminary inquiry conducted by the said Bank, the petitioner had admitted that although he was not aware of the shortfall of the said notes, he had taken the responsibility to make good the loss to the Bank as

he had signed on top and bottom of each of the said bundles of notes and had requested the Management of the Bank not to take any action against him.

It appears that after the registration of the said crime, the petitioner was arrested on 29.12.03 and was ordered to be released on bail on 30.12.03 by the learned J.M.F.C., Ponda. The main grievance of the petitioner is that although the crime was registered way back on 6.8.02, it is almost two years now and no charge sheet has been filed and on account of the said delay the said complaint/FIR be quashed.

The respondent has filed an affidavit of the P.S.I. of Ponda Police Station. In the said affidavit, the delay in not filing the charge sheet till date has been explained. From the said affidavit, it can be gathered that there was some delay on account of the change of the Investigation Officer and thereafter in sending certain exhibits for the opinion of the Examiner of questioned documents at Hyderabad and in that process there was also delay in obtaining the Demand Drafts which had to be sent for the purpose of the said examination. It also appears that the said Examiner of questioned documents also wanted further specimen signatures which have now been sent and it has been stated that no sooner the opinion of the said Examiner is obtained the charge sheet will be filed.

It is not the case of the petitioner that the complaint/FIR filed against him discloses no offence. It appears that the Bank itself subsequently conducted an inquiry against the petitioner and the petitioner has been dismissed from service. It is also not the case of the petitioner that any of the provisions of the Code of Criminal Procedure, 1973 particularly those of Section 167(5) or 468 are being violated by the respondents. In the light of what has been stated in the affidavit-in-reply by the Police Sub-Inspector/I.O. this is not a fit case to quash the said complaint/FIR only on the ground that there has been delay in the investigations of the case.

The petition, therefore, is hereby rejected with no order as to costs. Since prima facie case against the petitioner has been made, the I.O/P.S.I. will be at liberty to file the charge sheet provisionally pending the receipt of the opinion of the said Examiner of questioned documents at Hyderabad.

N. A. BRITTO, J.